

CHAPTER 1147**ENTITIES AND SUBJECTS REGULATED BY DIVISION OF INSURANCE***H.F. 2317*

AN ACT relating to entities and subject matter under the regulatory authority of the insurance division, including motor vehicle service contracts, securities, business opportunities, residential service contracts, retirement care contracts, transfer on death probate provisions, viatical settlement contracts; and establishing penalties and making penalties applicable.

Be It Enacted by the General Assembly of the State of Iowa:

**DIVISION I
MOTOR VEHICLE SERVICE CONTRACTS**

Section 1. Section 321I.1, subsection 1, Code 1999, is amended to read as follows:

1. "Commissioner" means the commissioner of insurance as provided in section 505.1 or the deputy administrator appointed under section 502.601.

Sec. 2. Section 321I.1, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 6A. "Record" means information stored or preserved in any medium, including in an electronic or paper format. A record includes but is not limited to documents, books, publications, accounts, correspondence, memoranda, agreements, computer files, film, microfilm, photographs, and audio or visual tapes.

Sec. 3. Section 321I.2, subsection 2, Code 1999, is amended to read as follows:

2. The issuer of a reimbursement insurance policy shall not cancel a reimbursement insurance policy unless a written notice has been received by the ~~insurance division commissioner~~ and by each applicable provider, including automobile dealers and third-party administrators, ~~which~~. The notice shall fix the date of cancellation at a date no earlier than ten days after receipt of the notice by the ~~insurance division commissioner~~ and by the applicable provider. The notice may be made in person or by mail and a post office department receipt of certified or registered mailing shall be deemed proof of receipt of the notice.

Sec. 4. Section 321I.3, subsection 2, Code 1999, is amended to read as follows:

2. In addition to any other required filings, ~~a true and correct~~ an accurate copy of the service contract and the provider's reimbursement insurance policy, the consent to service of process on the commissioner, and such other information as the commissioner requires, shall be filed annually with the commissioner no later than the first day of August. If the first day of August falls on a weekend or a holiday, the date for filing shall be the next business day. In addition to the annual filing, the provider shall promptly file copies of any amended documents if material amendments have been made in the materials on file with the ~~division commissioner~~. If an annual filing is made after the first of August and sales have occurred during the period when the provider was in noncompliance with this section, the ~~division commissioner~~ shall assess an additional filing fee that is two times the amount normally required for an annual filing. A fee shall not be charged for interim filings made to keep the materials filed with the division current and accurate. The annual filing shall be accompanied by a filing fee determined by the commissioner which shall be sufficient to defray the costs of administering this chapter.

Sec. 5. Section 321I.3, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 3. a. A motor vehicle service contract provider shall promptly file the following information with the insurance commissioner:

- (1) A change in the name or ownership of the provider.
 - (2) The termination of the provider's business.
- b. The provider is not required to submit a fee as part of this filing.

Sec. 6. Section 321I.10, Code 1999, is amended to read as follows:
321I.10 MISREPRESENTATIONS OF STATE APPROVAL.

~~It is unlawful for a~~ A motor vehicle service contract provider ~~to shall not~~ represent or imply in any manner that the provider has been sponsored, recommended, or approved or that the provider's abilities or qualifications have in any respect been passed upon by the ~~securities bureau, the insurance division, or the state of Iowa, including the commissioner, the insurance division, or the division's securities bureau.~~

Sec. 7. Section 321I.11, Code 1999, is amended by adding the following new subsection:
NEW SUBSECTION. 5A. A motor vehicle service contract provider shall not repair a motor vehicle covered by a motor vehicle service contract with any of the following:

- a. Used parts, unless the provider receives prior written authorization by the vehicle owner.
- b. Rebuilt parts, unless the parts are rebuilt according to national standards recognized by the insurance division.

Sec. 8. Section 321I.12, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A motor vehicle service contract provider shall keep accurate ~~accounts, books, and~~ records concerning transactions regulated under this chapter.

Sec. 9. Section 321I.12, subsection 1, paragraph a, unnumbered paragraph 1, Code 1999, is amended to read as follows:

A motor vehicle service contract provider's ~~accounts, books, and~~ records shall include all of the following:

Sec. 10. Section 321I.12, subsection 1, paragraphs b and c, Code 1999, are amended to read as follows:

b. A motor vehicle service contract provider shall retain all required ~~accounts, books, and~~ records pertaining to a service contract holder for at least two years after the specified period of coverage has expired. A provider discontinuing business in this state shall maintain its records until the provider furnishes the commissioner satisfactory proof that the provider has discharged all obligations to contract holders in this state.

c. Motor vehicle service contract providers shall make all ~~accounts, books, and~~ records concerning transactions regulated under the chapter available to the commissioner for the purpose of examination.

Sec. 11. Section 321I.14, subsections 1, 2, and 4, Code 1999, are amended to read as follows:

1. ~~The administrator of this chapter~~ commissioner may take actions which are necessary or appropriate for the protection of service contract holders or ~~to administer for the effective administration of this chapter.~~ The ~~administrator~~ commissioner may make private and public investigations and examinations as the ~~administrator~~ commissioner deems necessary to determine whether any person has violated or is about to violate this chapter or a rule or order adopted or issued pursuant to this chapter.

2. ~~For the purpose of~~ In an investigation or proceeding under this chapter, the ~~administrator~~ commissioner or any officer designated by the ~~administrator~~ commissioner may administer oaths and affirmations, subpoena witnesses and compel their attendance, take evidence, and require the production of ~~books, papers, correspondence, memoranda, agreements, or other documents or~~ records which the ~~administrator~~ commissioner deems relevant or material to an inquiry, all of which may be enforced in accordance with chapter 17A.

4. ~~If an investigation provides reasonable evidence~~ Upon the commissioner's determination that a person violated ~~provider has engaged, is engaging, or is about to engage in any act or practice constituting a violation of~~ this chapter or a rule adopted pursuant to this chapter, the commissioner may issue ~~an a~~ a summary order directed at ~~directing~~ the person to cease and desist from engaging in the act or practice resulting in the violation ~~or to take other affirmative action as in the judgment of the commissioner is necessary to comply with the requirements of this chapter.~~

a. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person who has been issued a summary order under this subsection may contest the order by filing a request for a contested case proceeding as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection.

b. A person violating a summary order issued under this subsection shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

Sec. 12. Section 321I.15, Code 1999, is amended to read as follows:

321I.15 AUDITS.

The commissioner may examine or cause to be examined the ~~books, papers, records, memoranda, or documents~~ of a motor vehicle service contract provider for the purpose of verifying compliance with this chapter. The commissioner may require, by a subpoena, the attendance of the provider, or the provider's representative, and any other witness whom the commissioner deems necessary or expedient, and the production of ~~books, papers, records, memoranda, or documents~~ relating in any manner to compliance with this chapter if a provider or witness fails or refuses to produce the documents for examination when requested by the commissioner.

Sec. 13. Section 321I.16, Code 1999, is amended to read as follows:

321I.16 VIOLATIONS — PENALTIES.

1. a. Except as provided in paragraph "b", all of the following shall apply:

(1) A violation of this chapter or a rule adopted pursuant to this chapter is a violation of section 714.16, subsection 2, paragraph "a". The remedies and penalties provided by section 714.16, including but not limited to injunctive relief and civil penalties, apply to violations of this chapter.

(2) A person who willfully and knowingly violates this chapter or a rule adopted pursuant to this chapter is, upon conviction, guilty of a class "D" felony.

b. A motor vehicle service contract provider who fails to file documents and information with the commissioner as required pursuant to section 321I.3 may be subject to a civil penalty. The amount of the civil penalty shall not be more than four hundred dollars plus two dollars for each motor vehicle service contract that the person executed prior to satisfying the filing requirement. However, a person who fails to file information regarding a change in the provider's name or the termination of the provider's business as required pursuant to section 321I.3 is subject to a civil penalty of not more than five hundred dollars.

2. If the commissioner believes that grounds exist for the criminal prosecution of ~~persons subject to this chapter~~ a motor vehicle service contract provider for ~~violations of~~ violating this chapter or any other law of this state, the commissioner may forward to the attorney general or the county attorney the grounds for the belief, including all evidence in the commissioner's possession, ~~in order that the attorney general or the county attorney may proceed with the matter as for action~~ deemed appropriate by the attorney general or county attorney. At the request of the attorney general, the county attorney shall appear and prosecute the action when brought in the county served by the county attorney.

~~3. A person who willfully and knowingly violates this chapter or a rule adopted pursuant to this chapter is, upon conviction, guilty of a class "D" felony.~~

Sec. 14. Section 321I.9, Code 1999, is repealed.

Sec. 15. DIRECTIONS TO THE CODE EDITOR. The Code editor is directed to transfer chapter 321I to or near chapter 523J, and correct internal references as necessary.

DIVISION II IOWA UNIFORM SECURITIES ACT

Sec. 16. Section 502.304, subsection 1, unnumbered paragraph 1, Code Supplement 1999, is amended to read as follows:

The administrator may by order deny, suspend, or revoke a registration or may censure, impose a civil penalty upon, or bar an applicant, registrant, branch manager, assistant branch manager, supervisor, or any officer, director, partner, or person occupying a similar status or performing similar functions for a registrant. A person barred under this subsection may be prohibited by the administrator from employment with a registered broker-dealer or investment adviser. The administrator may restrict the person barred from engaging in any activity for which registration is required. Any action by the administrator under this subsection may be taken if the order is found to be in the public interest and it is found that the applicant or registrant or, in the case of a broker-dealer or investment adviser, a partner, an officer, or a director, a person occupying a similar status or performing similar functions, or a person directly or indirectly controlling the broker-dealer or investment adviser, or a branch manager, assistant branch manager, or supervisor:

Sec. 17. Section 502.604, subsection 1, Code Supplement 1999, is amended to read as follows:

1. Issue ~~an~~ a summary order directed at the person requiring the person to cease and desist from engaging in such act or practice or to take other affirmative action as in the judgment of the administrator is necessary to comply with the requirements of this chapter.

a. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person who has been issued a summary order under this subsection may contest the order by filing a request for a contested case proceeding as provided in chapter 17A and in accordance with rules adopted by the administrator. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection.

b. A person violating a summary order issued under this subsection shall be deemed in contempt of that order. The administrator may petition the district court to enforce the order as certified by the administrator. The district court shall adjudge the person in contempt of the order, if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

Sec. 18. Section 502.605, subsection 1, Code 1999, is amended to read as follows:

1. a. Any Except as provided in paragraph "b", a person who willfully and knowingly violates any provision of this chapter, or any rule or order under this chapter, shall be ~~is~~ guilty of a class "D" felony.

b. A person who willfully and knowingly violates section 502.401, 502.402, or 502.403, or section 502.408, subsection 1 or 2, resulting in a loss of more than ten thousand dollars is guilty of a class "C" felony.

Sec. 19. Section 502.609, subsection 1, unnumbered paragraph 1, Code 1999, is amended to read as follows:

Every applicant for registration under this chapter, and every issuer which proposes to offer a security in this state, unless exempt under section 502.202 or 502.203 and the administrator by rule or order waives the filing, shall file with the administrator, in such form as the administrator by rule prescribes, an irrevocable consent appointing the administrator or the administrator's successor in office to be such person's attorney to receive service of any lawful process in any noncriminal suit, action or proceeding against such person or the successor, executor or administrator of such person which arises under this chapter or any rule or order hereunder after the consent has been filed, with the same validity as if served personally on the person filing the consent. The consent need not be filed by a person who has filed a consent in connection with a previous registration or notice filing which is then in effect. Service may be made by leaving a copy of the process in the office of the administrator, but it is not effective unless the plaintiff, including the administrator when acting as such, does the following:

DIVISION III BUSINESS OPPORTUNITY PROMOTIONS

Sec. 20. Section 523B.1, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 10A. "Record" means the same as defined in section 321I.1.

Sec. 21. Section 523B.2, subsection 2, paragraph b, subparagraph (2), Code Supplement 1999, is amended to read as follows:

(2) A disclosure document prepared pursuant to the federal trade commission rule ~~entitled "Disclosure relating to disclosure requirements and prohibitions concerning franchising and business opportunity ventures"~~, as adopted by rule of the administrator in accordance with 16 C.F.R. § 436 (1979). ~~The administrator may by rule adopt any amendment to the disclosure document prepared pursuant to 16 C.F.R. § 436 (1979) that has been adopted by the federal trade commission.~~

Sec. 22. Section 523B.2, subsection 2, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. c. The seller shall disclose to the administrator in the disclosure document or otherwise any sales or offers made in this state prior to registration.

Sec. 23. Section 523B.2, subsection 4, Code Supplement 1999, is amended to read as follows:

4. EFFECTIVE DATE. A registration automatically becomes effective upon the expiration of the ~~fifteenth~~ thirtieth full business day after the complete filing is received by the administrator, provided that ~~no~~ an order has ~~not~~ been issued or ~~a~~ proceeding is ~~not~~ pending under subsection 10. The administrator may by order waive or reduce the time period prior to effectiveness, provided that a complete filing has been made. The administrator may by order defer the effective date until the expiration of the ~~fifteenth~~ thirtieth full business day after the filing of an amendment with the administrator.

Sec. 24. Section 523B.2, subsection 9, paragraph c, Code Supplement 1999, is amended by adding the following new subparagraph:

NEW SUBPARAGRAPH. (8) The rights and responsibilities of the parties regarding the marketing of a business opportunity, including but not limited to all of the following:

- (a) Whether the seller assigns the purchaser a territory in which to sell a business opportunity.
- (b) Whether the seller assists the purchaser in finding locations in which to sell a business opportunity.
- (c) Whether the purchaser is solely responsible for marketing a business opportunity.

Sec. 25. Section 523B.8, subsection 1, Code 1999, is amended to read as follows:

1. ~~a. If it appears to the administrator~~ Upon the administrator's determination that a person has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or a rule or order adopted or issued under this chapter, the administrator may issue ~~an a summary order directed at directing the person requiring the person to cease and desist from engaging in the act or practice or to take other affirmative action as in the judgment of the administrator is necessary to comply with the requirements of this chapter.~~

~~b. The~~ If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person named in the order may, within fourteen days of the date of the order, file a written who has been issued a summary order under this subsection may contest it by filing a request for a hearing. The hearing shall be held in accordance with contested case proceeding as provided in chapter 17A and in accordance with the rules adopted by the administrator. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection.

~~c. A person violating a summary order issued under this subsection shall be deemed in contempt of that order. The administrator may petition the district court to enforce the order as certified by the administrator. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.~~

~~Any~~ A consent agreement between the administrator and the seller may be filed in the miscellaneous docket of the clerk of the district court.

Sec. 26. Section 523B.8, subsection 2, paragraph b, Code 1999, is amended to read as follows:

b. For the purpose of an investigation or proceeding under this chapter, the administrator or an officer designated by the administrator may administer oaths and affirmations, subpoena witnesses, compel the attendance of witnesses, take evidence and require the production of ~~books, papers, correspondence, memoranda, agreements, or other documents or records~~ which the administrator deems relevant or material to the inquiry.

DIVISION IV RESIDENTIAL SERVICE CONTRACTS

Sec. 27. Section 22.7, Code Supplement 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 39. Information obtained by the commissioner of insurance in the course of an investigation as provided in section 502.603, 523B.8, or 523C.23.

Sec. 28. Section 523C.1, Code 1999, is amended by adding the following new subsection:

NEW SUBSECTION. 6A. "Record" means the same as defined in section 321I.1.

Sec. 29. Section 523C.7, subsection 4, Code 1999, is amended to read as follows:

4. To the extent necessary to administer the provisions of this chapter, the commissioner may, after notice and hearing, institute a residential service contract form approval or form review fee ~~as the commissioner shall by. If the commissioner establishes a fee, the amount of the fee shall be set by rule set adopted pursuant to chapter 17A.~~ The fee, ~~if imposed,~~ may be by dollar amount or based upon a percentage of the sale value of the contract. However, the fee shall not exceed fifty thousand dollars.

Sec. 30. Section 523C.19, Code 1999, is amended to read as follows:

523C.19 CEASE AND DESIST ORDERS.

1. ~~If an investigation provides reasonable evidence~~ Upon the commissioner's determination that a person violated any provision has engaged, is engaging, or is about to engage in any act or practice constituting a violation of this chapter or any rule adopted pursuant to this chapter, the commissioner may issue an order ~~directed at~~ directing the person to cease and desist from engaging in the act or practice resulting in the violation or to take other affirmative action as in the judgment of the commissioner is necessary to comply with the requirements of this chapter.

2. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person who has been issued a summary order under this section may contest it by filing a request for a contested case proceeding as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this subsection.

3. A person violating a summary order issued under this subsection¹ shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

Sec. 31. NEW SECTION. 523C.23 INVESTIGATIONS AND SUBPOENAS.

1. a. In enforcing this chapter, the commissioner may conduct a public or private investigation in order to do any of the following:

(1) Determine whether a person has violated or is about to violate a provision of this chapter or a rule or order under this chapter.

(2) Aid in the enforcement of this chapter or in the prescribing of rules and forms under this chapter.

b. In carrying out this subsection, the commissioner may do all of the following:

(1) Conduct the investigation within or outside of this state.

(2) Require or allow a person to file a statement in writing regarding the facts or circumstances concerning a matter to be investigated. The commissioner may require that the statement be made under oath.

(3) Apply to the district court for the issuance of an order requiring a person's appearance before the commissioner or the attorney general. The person may also be required to produce documentary evidence germane to the subject of the investigation. The failure to obey an order under this subsection constitutes contempt of court.

c. Information obtained in the course of an investigation is confidential as provided in section 22.7. However, upon a determination that disclosure of the information is necessary or appropriate in the public interest or for the protection of consumers, the commissioner may do any of the following:

(1) Share information obtained during the course of the investigation with another regulatory authority or government agency.

(2) Publish information obtained during the course of the investigation which concerns a violation of this chapter or a rule or order under this chapter.

2. Except as provided in section 523C.19, a proceeding instituted under this chapter shall be conducted pursuant to chapter 17A and rules adopted by the commissioner pursuant to chapter 17A.

¹ See chapter 1232, §82 herein

3. In an investigation or proceeding conducted under this chapter, the commissioner or any designee of the commissioner may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any records which the commissioner deems relevant or material to the inquiry.

4. A person is not excused from attending and testifying or from producing a document or record before the commissioner or in obedience to a subpoena of the commissioner or an officer designated by the commissioner, or in a proceeding instituted by the commissioner, on the grounds that the testimony or evidence, documentary or otherwise, required of the person may tend to incriminate or subject the person to a penalty or forfeiture. However, a person shall not be prosecuted or subjected to any penalty or forfeiture due to a transaction or matter about which the person is compelled, after claiming privilege against self-incrimination, to testify or produce evidence, documentary or otherwise. The person testifying, however, is not exempt from prosecution and punishment for perjury or contempt committed while testifying.

DIVISION V RETIREMENT CARE CONTRACTS

Sec. 32. Section 523D.13, Code 1999, is amended to read as follows:
523D.13 COMPLIANCE ORDERS.

1. Upon the commissioner's determination that a provider ~~has violated a provision has engaged, is engaging, or is about to engage in any act or practice constituting a violation of~~ this chapter or a rule adopted pursuant to this chapter, the commissioner may issue ~~an a~~ summary order requiring a directing the provider to cease and desist from an unlawful engaging in the act or practice resulting in the violation or to take other affirmative action as in the judgment of the commissioner is necessary to comply with the requirements of this chapter.

2. ~~The person named in the order may, within fourteen days after receipt of the order, file a written request for a hearing. The hearing shall be held in accordance with chapter 17A. If a hearing is not requested, the order shall become permanent. If a hearing is not timely requested, the summary order becomes final by operation of law. The order shall remain effective from the date of issuance until the date the order becomes final by operation of law or is overturned by a presiding officer or court following a request for hearing. A person who has been issued a summary order under this section may contest it by filing a request for a contested case proceeding as provided in chapter 17A and in accordance with rules adopted by the commissioner. However, the person shall have at least thirty days from the date that the order is issued in order to file the request. Section 17A.18A is inapplicable to a summary order issued under this section.~~

3. A person violating a summary order issued under this section shall be deemed in contempt of that order. The commissioner may petition the district court to enforce the order as certified by the commissioner. The district court shall adjudge the person in contempt of the order if the court finds after hearing that the person is not in compliance with the order. The court shall assess a civil penalty against the person in an amount not less than three thousand dollars but not greater than ten thousand dollars per violation, and may issue further orders as it deems appropriate.

DIVISION VI PROBATE TRANSFER ON DEATH

Sec. 33. Section 633.801, subsection 6, Code 1999, is amended to read as follows:

6. "Security" means a security as defined in section 502.102. For purposes of this chapter, "security" includes, but is not limited to, a certificated security, an uncertificated security, and a security account.

DIVISION VII
VIATICAL SETTLEMENT CONTRACTS

Sec. 34. Section 502.202, subsection 19, Code Supplement 1999, is amended by adding the following new paragraph:

NEW PARAGRAPH. e. The assignment, transfer, sale, devise, or bequest of the death benefit or ownership of a life insurance policy or contract made by the policyholder or contract owner to a viatical settlement provider, if the viatical settlement transaction complies with chapter 508E, including rules adopted pursuant to that chapter.

Sec. 35. NEW SECTION. 508E.1 AUTHORITY OF THE COMMISSIONER.

The commissioner shall regulate, but not prohibit, the sale of viatical settlements as provided in this chapter.

Sec. 36. NEW SECTION. 508E.2 DEFINITIONS.

As used in this chapter, unless the context otherwise requires:

1. "Chronically ill" means any of the following:
 - a. Being unable to perform or maintain at least two activities of daily living, including but not limited to eating, toileting, transferring, bathing, dressing, or continence.
 - b. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment.
 - c. Having a level of disability similar to that described in paragraph "a" as determined by the United States secretary of health and human services.
2. "Commissioner" means the commissioner of insurance.
3. "Terminally ill" means having an illness or sickness that can reasonably be expected to result in death in twenty-four months or less.
4. "Viatical settlement contract" means a written agreement entered into between a viatical settlement provider and a person who owns or is insured under a life insurance policy or certificate, or who owns or is covered under a group life insurance policy. "Viatical settlement contract" does not mean a written agreement entered into between a viator and a person having an insurable interest in the viator's life.
5. "Viator" means a person selling a life insurance policy or certificate.

Sec. 37. NEW SECTION. 508E.3 VIATICAL SETTLEMENT CONTRACT LIMITATIONS.

1. a. Subject to paragraph "b", a viatical settlement contract shall not be entered into until after the contestable period of the life insurance policy or certificate has expired.
 - b. If a viatical settlement contract is entered into during the contestable period of the life insurance policy or certificate, a rebuttable presumption arises that it was the intent of the person entering into such contract with a viatical settlement provider to enter into such contract at the time the life insurance policy or certificate was originally purchased. If such person fails to rebut the presumption, the viatical settlement contract is void.
2. A viatical settlement contract shall only be entered into with an individual who owns a life insurance policy or certificate which covers the life of an individual who is either terminally ill or chronically ill, or as otherwise provided pursuant to rules adopted by the commissioner.

Sec. 38. NEW SECTION. 508E.4 RULEMAKING AUTHORITY.

The commissioner shall adopt rules as necessary to administer this chapter. Rules shall be adopted relating to all of the following:

1. Advertising standards.
2. Disclosure.
3. Examinations.
4. Insurance company practices.
5. License requirements.
6. Prohibited practices.
7. Refund provisions.
8. Reporting.

9. Standards for reasonableness of payment.
10. Unfair trade practices.
11. Viatical settlement contracts.

Approved April 26, 2000

CHAPTER 1148

OFFICIAL PUBLICATIONS AND COUNTY RECORDS

H.F. 2429

AN ACT relating to the publication and recordkeeping duties of county officers by providing for the maintenance of permanent records by electronic means and the determination of publication rates.

Be It Enacted by the General Assembly of the State of Iowa:

Section 1. COUNTY SYSTEM FOR DATA STORAGE AND RETRIEVAL.

1. Chapters 6B, 10A, 11, 12B, 24, 35B, 43, 50, 62, 64, 65, 66, 69, 96, 99, 124C, 144, 147, 161A, 177A, 230, 257B, 306, 309, 311, 317, 321A, 347B, 353, 354, 357, 357C, 357D, 357E, 357F, 357G, 358, 358C, 359, 359A, 380, 384, 386, 420, 422, 424, 425, 426A, 428, 433, 434, 435, 436, 437, 437A, 438, 440, 441, 443, 444, 448, 449, 455I, 468, 556F, 557C, 558, 561, 595, 614, 658, and 717B, Code 1999 and Code Supplement 1999, are amended by adding the following new definition:

NEW DEFINITION. As used in this chapter, unless the context otherwise requires, “list”, “book”, “record”, or “schedule” kept by a county auditor, assessor, treasurer, recorder, sheriff, or other county officer means the county system as defined in section 445.1.

2. The Code editor is directed to add the definition prescribed in subsection 1 to the definition sections of each chapter listed or, if a definition section does not exist, to create a definition section including the definition prescribed in subsection 1 for the chapter in the Code of Iowa, 2001.

Sec. 2. Section 618.11, Code 1999, is amended by striking the section and inserting in lieu thereof the following:

618.11 FEES FOR PUBLICATION.

The compensation, when not otherwise fixed, for the publication in a newspaper of any notice, order, citation, or other publication required or allowed by law shall be at a rate of thirty-four cents for one insertion and twenty-three cents for each subsequent insertion for each line of eight point type two inches in length, or its equivalent. Beginning June 1, 2001, and each June 1 thereafter, the state printing administrator shall calculate a new rate for the following fiscal year as prescribed in this section, and shall publish this rate as a notice in the Iowa administrative bulletin prior to the first day of the following calendar month. The new rate shall be effective on the first day of the calendar month following its publication. The rate shall be calculated by applying the percentage change in the consumer price index for all urban consumers for the last available twelve-month period published in the federal register by the federal department of labor, bureau of labor statistics, to the existing rate as an increase or decrease in the rate rounded to the nearest one-tenth of a cent. The calculation and publication of the rate by the state printing administrator shall be exempt from the provisions of chapters 17A and 25B.

Approved April 26, 2000